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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/524,637

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Boris Mayer

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EXAMINER

VERDI, KIMBLEANN C

ART UNIT

PAPER NUMBER

2194

MAIL DATE

DELIVERY MODE

04/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/524,637	Applicant(s) MAYER ET AL.	
	Examiner KimbleAnn Verdi	Art Unit 2194	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): Applicant's arguments, see page 6, lines 3-17, filed April 1, 2009, with respect to 35 U.S.C. 101 rejection of claim 12 have been fully considered and are persuasive. The 35 U.S.C. 101 rejection of claim 12 has been withdrawn. Claim 12, recites "the communication interface is an SMS gateway". According to Applicant's arguments, see page 6, lines 3-17, "an SMS gateway comprises the computer hardware required to communicate an SMS message. Since the device of claim 12 comprises a communication interface which is an SMS gateway the claim includes hardware for the claimed device.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.

Claim(s) objected to: NONE.

Claim(s) rejected: 10-12.

Claim(s) withdrawn from consideration: NONE.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Li B. Zhen/
Primary Examiner, Art Unit 2194

U.S. Patent and Trademark Office
PTOL-303 (Rev. 08-06)

Advisory Action Before the Filing of an Appeal Brief

Part of Paper No. 20090403

continuation of 7:

Applicant's arguments filed April 1, 2009 have been fully considered but they are not persuasive.

(1) Reed fails the first prong of the analogous art test as Reed is not in the field of Applicants' endeavor. The field of Applicants' endeavor is shipping logistic systems, particularly electronic parcel compartment systems. See the instant application, page 3, lines 10-15. Reed, however, is in the field of automated communication systems. See Reed abstract. Thus, the fields of endeavor between the Applicants' invention and Reed are different. As a result, Reed fails the first prong of the test for analogous art (page 8, lines 5-11).

In response to applicant's argument (1) that Reed et al. (hereinafter Reed) (U.S. Publication No. 2002/0095454 A1) is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Reed is in the field of communication systems of which is included the communication system of conventional postal mail networks (paragraph [0005], lines 10-11). Applicant describes the disclosure as relating to a method and to a device to inform senders or recipients of mail pieces about the status of the shipment (page 1, lines 8-9, Applicant's specification). Reed discloses a mechanism for coordinating physical package delivery using a communications object system (paragraph [0081] of Reed), which executes consumer notification methods for pickup and delivery acknowledgment by monitoring the delivery (step 4917 Figure 44, paragraph [0531], lines 1-5 and 60-70 of Reed), thus Reed is in the field of applicant's endeavor.

(2) However, Reed does not disclose or suggest categorizing events at an electronic parcel compartment system. In fact, Reed does not disclose or suggest an electronic parcel compartment system of any sort. The official action fails to even allege that Reed categorizes events in a parcel compartment system, and thus the official action fails to establish a prima facie case of obviousness. The allegation that "Reed categorizes the events in classes" is not sufficient to show that Reed teaches categorizing events in an electronic parcel compartment system. In fact, Reed simply teaches that the "event 116 class is an abstract class defining the attributes for scheduled events 117 and logged events 118." See Reed paragraph [0140]. This generic recitation of scheduled and logged events is not sufficient to show a teaching of categorizing events in an electronic parcel compartment system into classes, as recited by the pending claims (page 7, lines 8-20).

In response to argument (2), examiner respectfully disagrees and notes that Reed discloses categorizing the events in classes. Reed teaches Event 116 class, Figure 3, is an abstract class defining the attributes for Scheduled Events 117, Figure 3 and logged events 118, Figure 3 (paragraph [0140]). For example the scheduled events and logged events can be interpreted as the classification of the events in classes since scheduled events and logged events are categorized as two different subclasses created from the base class event (Figure 3, paragraph [0140]).

In response to applicant's argument (2) that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., categorizing events in an electronic parcel compartment system) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).